



Sen. William R. Haine

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09700SB3233sam001

LRB097 19652 RPM 66923 a

1 AMENDMENT TO SENATE BILL 3233

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3233 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 changing Section 356z.3a as follows:

6 (215 ILCS 5/356z.3a)

7 Sec. 356z.3a. Nonparticipating facility-based physicians  
8 and providers.

9 (a) For purposes of this Section, "facility-based  
10 provider" means a physician or other provider who provide  
11 radiology, anesthesiology, pathology, neonatology, or  
12 emergency department services to insureds, beneficiaries, or  
13 enrollees in a participating hospital or participating  
14 ambulatory surgical treatment center.

15 (b) When a beneficiary, insured, or enrollee utilizes a  
16 participating network hospital or a participating network

1 ambulatory surgery center and, due to any reason, in network  
2 services for radiology, anesthesiology, pathology, emergency  
3 physician, or neonatology are unavailable and are provided by a  
4 nonparticipating facility-based physician or provider, the  
5 insurer or health plan shall ensure that the beneficiary,  
6 insured, or enrollee shall incur no greater out-of-pocket costs  
7 than the beneficiary, insured, or enrollee would have incurred  
8 with a participating physician or provider for covered  
9 services.

10 (c) If a beneficiary, insured, or enrollee agrees in  
11 writing, notwithstanding any other provision of this Code, any  
12 benefits a beneficiary, insured, or enrollee receives for  
13 services under the situation in subsection (b) are assigned to  
14 the nonparticipating facility-based providers. The insurer or  
15 health plan shall provide the nonparticipating provider with a  
16 written explanation of benefits that specifies the proposed  
17 reimbursement and the applicable deductible, copayment or  
18 coinsurance amounts owed by the insured, beneficiary or  
19 enrollee. The insurer or health plan shall pay any  
20 reimbursement directly to the nonparticipating facility-based  
21 provider. The nonparticipating facility-based physician or  
22 provider shall not bill the beneficiary, insured, or enrollee,  
23 except for applicable deductible, copayment, or coinsurance  
24 amounts that would apply if the beneficiary, insured, or  
25 enrollee utilized a participating physician or provider for  
26 covered services. If a beneficiary, insured, or enrollee

1 specifically rejects assignment under this Section in writing  
2 to the nonparticipating facility-based provider, then the  
3 nonparticipating facility-based provider may bill the  
4 beneficiary, insured, or enrollee for the services rendered.

5 (d) For bills assigned under subsection (c), the  
6 nonparticipating facility-based provider may bill the insurer  
7 or health plan for the services rendered, and the insurer or  
8 health plan may pay the billed amount or attempt to negotiate  
9 reimbursement with the nonparticipating facility-based  
10 provider. If attempts to negotiate reimbursement for services  
11 provided by a nonparticipating facility-based provider do not  
12 result in a resolution of the payment dispute within 30 days  
13 after receipt of written explanation of benefits by the insurer  
14 or health plan, then an insurer or health plan or  
15 nonparticipating facility-based physician or provider may  
16 initiate binding arbitration to determine payment for services  
17 provided on a per bill basis. The party requesting arbitration  
18 shall notify the other party arbitration has been initiated and  
19 state its final offer before arbitration. In response to this  
20 notice, the nonrequesting party shall inform the requesting  
21 party of its final offer before the arbitration occurs.  
22 Arbitration shall be initiated by filing a request with the  
23 Department of Insurance.

24 (e) The Department of Insurance shall publish a list of  
25 approved arbitrators or entities that shall provide binding  
26 arbitration. These arbitrators shall be American Arbitration

1 Association or American Health Lawyers Association trained  
2 arbitrators. Both parties must agree on an arbitrator from the  
3 Department of Insurance's list of arbitrators. If no agreement  
4 can be reached, then a list of 5 arbitrators shall be provided  
5 by the Department of Insurance. From the list of 5 arbitrators,  
6 the insurer can veto 2 arbitrators and the provider can veto 2  
7 arbitrators. The remaining arbitrator shall be the chosen  
8 arbitrator. This arbitration shall consist of a review of the  
9 written submissions by both parties. Binding arbitration shall  
10 provide for a written decision within 45 days after the request  
11 is filed with the Department of Insurance. Both parties shall  
12 be bound by the arbitrator's decision. The arbitrator's  
13 expenses and fees, together with other expenses, not including  
14 attorney's fees, incurred in the conduct of the arbitration,  
15 shall be paid as provided in the decision.

16 (f) This Section 356z.3a does not apply to a beneficiary,  
17 insured, or enrollee who willfully chooses to access a  
18 nonparticipating facility-based physician or provider for  
19 health care services available through the insurer's or plan's  
20 network of participating physicians and providers. In these  
21 circumstances, the contractual requirements for  
22 nonparticipating facility-based provider reimbursements will  
23 apply.

24 (g) Section 368a of this Act shall not apply during the  
25 pendency of a decision under subsection (d) any interest  
26 required to be paid a provider under Section 368a shall not

1 accrue until after 30 days of an arbitrator's decision as  
2 provided in subsection (d), but in no circumstances longer than  
3 150 days from date the nonparticipating facility-based  
4 provider billed for services rendered.

5 (h) Nothing in this Section shall be interpreted to change  
6 the prudent layperson provisions with respect to emergency  
7 services under the Managed Care Reform and Patient Rights Act.

8 (Source: P.A. 96-1523, eff. 6-1-11.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.".